

UNITED STATES U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ESPERION THERAPEUTICS, INC.,

Plaintiff,

v.

DAIICHI SANKYO EUROPE GMBH,

Defendant.

Civil Action No. 1:23-cv-02568-ER

**DECLARATION OF TONI-ANN CITERA  
IN SUPPORT OF DEFENDANT'S  
OPPOSITION TO PLAINTIFF'S MOTION  
FOR JUDGMENT ON THE PLEADINGS**

I, Toni-Ann Citera, declare as follows:

1. I am a Partner at the law firm of Jones Day and counsel for Daiichi Sankyo Europe GmbH ("DSE") in the above-referenced action. I submit this declaration in support of DSE's Opposition to Plaintiff's Motion for Judgment on the Pleadings (the "Opposition"), have personal knowledge of the matters set forth in this declaration, and put before this Court true and correct copies of the following documents, each of which accompanies this declaration.

2. Attached as Exhibit 1 is a true and correct copy of Amendment 3.1 to the Clinical Study Protocol for Study 1002-043, entitled "A Randomized, Double-blind, Placebo-controlled Study to Assess the Effects of Bempedoic Acid (ETC-1002) on the Occurrence of Major Cardiovascular Events in Patients with, or at high risk for, Cardiovascular Disease who are Statin Intolerant," also known as the "CLEAR Outcome Study," dated July 30, 2018.

3. Attached as Exhibit 2 is a true and correct copy of Amendment 5 to the Clinical Study Protocol for Study 1002-043, entitled "A Randomized, Double-blind, Placebo-controlled Study to Assess the Effects of Bempedoic Acid (ETC-1002) on the Occurrence of Major Cardiovascular Events in Patients with, or at high risk for, Cardiovascular Disease who are Statin Intolerant," also known as the "CLEAR Outcome Study," dated September 24, 2020.

I hereby declare that the foregoing statements made by me are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.

Dated: New York, New York  
November 15, 2023

JONES DAY

By: /s/ Toni-Ann Citera  
Toni-Ann Citera

Certificate of Service

I hereby certify that on November 15, 2023, I caused the foregoing Declaration to be filed with the Clerk of the Court and served upon all counsel of record via the Court's CM/ECF system.

/s/ Toni-Ann Citera  
Toni-Ann Citera